APPEAL NO. 020762
FILED MAY 21, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on October 4, 2001. The case was remanded to obtain correct registered agent information, and has now been appealed again by the appellant (claimant). The claimant takes issue with the determinations of the hearing officer that she did not timely notify her employer of her repetitive trauma injury within 30 days of the date she knew, or should have known, that it may be related to her employment, and that she had no good cause for the delay. She also appeals the determination that she did not have disability as the result of either the asserted repetitive trauma injury or a single-event injury of _____. The respondent (carrier) responds that the decision should be affirmed.

DECISION

We affirm the hearing officer's decision.

We note at the outset that we are limited to the record developed at the CCH and generally will not consider new evidence presented for the first time on appeal. The hearing officer did not err in his determinations concerning lack of timely notice of a repetitive trauma injury or disability after either contended injury. It was clear in listening to the testimony of the claimant that any complaining of a new injury that she felt she was giving could well have been understood as relating to a prior back injury or consistent with generalized and frequent reports of pain. Indeed, additional issues were added at the CCH when (according to the carrier) the claimant raised for the first time that injuries to her shoulders and arms occurred prior to the initially claimed _____, specific back injury. In any case, the hearing officer found that no notice was given of any August or September 2000 repetitive trauma injury until notice was given of the specific _____, injury.

The hearing officer is the sole judge of the relevance, materiality, weight, and credibility of the evidence presented at the hearing. Section 410.165(a). The decision should not be set aside because different inferences and conclusions may be drawn upon review, even when the record contains evidence that would lend itself to different inferences. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ).

An appeals-level body is not a fact finder and does not normally pass upon the credibility of witnesses or substitute its own judgment for that of the trier of fact, even if the evidence would support a different result. National Union Fire Insurance Company of Pittsburgh, Pennsylvania v. Soto, 819 S.W.2d 619, 620 (Tex. App.-El Paso 1991, writ denied); American Motorists Insurance Co. v. Volentine, 867 S.W.2d 170 (Tex. App.-Beaumont 1993, no writ). The record in this case presented conflicting evidence for the hearing officer to resolve. In considering all the evidence in the record, we cannot agree

that the findings of the hearing officer are so against the great weight and preponderance of the evidence as to be manifestly wrong and unjust. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). We therefore affirm the decision and order.

The true corporate name of the insurance carrier is **COLONIAL CASUALTY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

BILL HAGAN
12850 SPURLING DRIVE, SUITE 250
DALLAS, TEXAS 75230.

Susan M. Kelley
Appeals Judge

CONCUR:

Philip F. O'Neill
Appeals Judge

Robert W. Potts
Appeals Judge